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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 30th April, 1965:

BILL No. 31 OF 1965

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1965.

(*2*) It shall come into force at once.

Amendment of the Eighth Schedule.

2. In the Eighth Schedule to the Constitution, after entry 10, the following new entry shall be inserted, namely:—

"10A. Rajasthani"

STATEMENT OF OBJECTS AND REASONS

Rajasthani has long been recognised by linguists and litterateurs as a full-fledged language. Even today, it is the language of common concourse among the people of Rajasthan. It is, therefore, only proper and befitting to accord recognition to *Rajasthani* as a regional language in the Eighth Schedule of the Constitution of India.

There is a widespread feeling among the people of Rajasthan that constitutional recognition of *Rajasthani* as a regional language is necessary for the preservation and growth of the literary and cultural heritage of Rajasthan. The inclusion of Rajasthani in the Eighth Schedule to the Constitution would fulfil the desire and the aspiration of the common people of Rajasthan.

L. M. SINGHVI.

BILL No. 15 OF 1965

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Code of Civil Procedure (Amendment) Act, 1965. Short title and commencement.

(*2*) It shall come into force at once.

2. Section 80 of the Code of Civil Procedure, 1908 shall be omitted. Omission of section 80.

5 of 1908.

STATEMENT OF OBJECTS AND REASONS

A statutory provision for protection for the State or public officials as against the citizens is out of date. Countries which have been concerned with the maintenance of the rule of law have made progress in the direction of equating the citizen with the State, curbing bureaucratic excesses and enabling the citizens to obtain cheaply and expeditiously any relief against the State or public agencies or officers that they may be entitled to. Articles 32, 226 and 227 of the Constitution reflect a similar approach. Innumerable cases can be cited where grave prejudice is caused by section 80 of the Civil Procedure Code to plaintiffs by the rigidity of the section and other analogous statutes. This section works great hardship upon the citizen because it exposes him to the risk of being non-suited merely because of a defect in the notice served prior to the suit. This section also makes it difficult for the citizen to obtain urgent, interim relief against a threatened Government action and this causes him great prejudice. The amendment seeks to remove these anomalies and establish equality before the law between the State and the citizen.

NEW DELHI; NATH PAI.
Dated 23rd February, 1965.

BILL No. 29 OF 1965

A Bill further to amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Income-tax (Amendment) Act, 1965. Short title and commencement.

(*2*) It shall come into force immediately.

43 of 1961. 2. In section 36 of the Income-tax Act, 1961, in sub-section (*1*), after clause (*viii*), the following clause shall be, and shall be deemed Amendment of section 36.

always to have been, inserted, namely:—

"(*ix*) any rent or royalty paid by the assessee to the Central Government or to any State Government or local authority for mining rights granted to him under a mining lease executed under the provisions of the Mines and Minerals (Regulation and Development) Act, 1957 or the Rules made by the Central Government, or any State Government in exercise of powers conferred under the said Act."

67 of 1957.

STATEMENT OF OBJECTS AND REASONS

It is commonly accepted that the payment of royalty is made wholly and exclusively for the purpose of a given business. The question, however, is whether such payment is on capital or revenue account. The purpose of the proposed amendment is to ensure that royalty payments under Mining Leases are allowed as deductible expenditure in computing business income under the parent Act.

A Full Bench of the Lahore High Court and the Judicial Committee of the Privy Council had held at one time that the payment of royalty was the price of the raw material or stock-in-trade and therefore a revenue expenditure [*vide* (1947) 15 I.T.R. 185 and (1949) 17 I.T.R. 473]. In the case of Pingle Industries Ltd., *vs.* C.I.T. (1960) 40 I.T.R. 67, the Supreme Court held (by a majority judgment of two to one) that the assessee acquired by the long term lease a part of the land, and that the payment was neither rent nor royalty, but a lump-sum payment in instalments for acquiring a capital asset of enduring benefit to the trade. The latest decision of the Rajasthan High Court has, however, made a further departure in pronouncing that even royalty which was calculated by reference to the production of the mineral is—Capital expenditure [*vide* (1964) 51 I.T.R. 533]. It is noteworthy that the Income-tax Department has now as a consequence of the decision of the Rajasthan High Court made it a rule to disallow such royalty payments as deductible expenditure.

It would be pertinent to recall that *the Taxation Enquiry Commission* (1953-54) in paragraph 7 of its Report (Vol. II, pages 87-88) has categorically stated that "where royalty is payable on the basis of production, it is clearly admissible (as deductible business expenditure)". Similarly, *the Direct Taxes Administration Enquiry Committee* (otherwise known as the Tyagi Committee) observed "that disallowance of royalties in the assessment cases of mining industry would obviously hamper its development and ability to compete in the world markets." Moreover, the then Finance Minister of India, at the time of the debate on the Income-tax Bill, 1961, clearly said that royalty for mining is eligible for deduction in computing the taxable income of a business *vide* Lok Sabha Debates dated 28th August 1961.

The proposed amendment would fulfil the assurance given by the Finance Minister of India when the parent Bill was being passed and

would implement the view uniformly taken by various Committees. Such a provision would also protect and give a fillip to the mining industry in our country.

Hence the Bill.

NEW DELHI; L. M. SINGHVI.

The 25th September, 1964.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 6(16)64-TPL, dated the 20th March, 1965 from Shri T. T. Krishnamachari, Minister of Finance to the Secretary, Lok Sabha].

The President, having been informed of the subject matter of the proposed Private Member's Bill further to amend the Income-tax Act, 1961, by Dr. L. M. Singhvi, Member of Parliament, recommends under articles 117(1) and 274 of the Constitution the introduction of the Bill in Lok Sabha.

* * * * *

BILL NO. 23 OF 1965

A Bill to provide for the payment of pensions to members of Parliament after retirement.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. This Act may be called the Payment of Pensions to Members of Parliament Act, 1965. Short title

2. The words and expressions used in this Act shall have the meanings respectively assigned to them in section 2 of the Salaries and Allowances of Members of Parliament Act, 1954. Definitions.

30 of 1954.

Eligibility of a member to receive pension.

3. A member, who has attained the age of sixty years and has served as a member of either House of Parliament for three consecutive terms and thereafter retires voluntarily and agrees not to contest any further elections to Parliament or does not accept further nomination for either House of Parliament, shall be entitled to the grant of a pension equal to one-half of the salary that he was getting at the time of his last term of membership.

STATEMENT OF OBJECTS AND REASONS

In the present stage of democratic set up the duties of a member of Parliament have become a whole-time job. The persons who enter the political arena of membership are generally advanced in age. When they become old they cannot have a new start in life. It is, therefore, necessary that such members who have served for three consecutive terms and who desire to retire voluntarily after reaching the age of sixty years should get a comfortable pension in order that they may devote the rest of their lives for public work outside the Legislature.

Hence this Bill.

HEM RAJ

NEW DELHI;
The 20th March, 1965.

FINANCIAL MEMORANDUM

The number of Members who will retire voluntarily and will consequently be eligible for pension benefits cannot be indicated in advance, but their number will be very small. Hence, the exact amount cannot be stated at present.

BILL No. 32 OF 1965

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1965.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force at once.

Amendment of article 356.

2. In article 356 of the Constitution, in clause (1), after the existing proviso, the following further proviso shall be inserted, namely:—

"Provided further that when Parliament is in session, no such Proclamation shall be issued unless it has been approved earlier by resolutions of both Houses of Parliament.".

STATEMENT OF OBJECTS AND REASONS

It is desirable that, when Parliament is in session, the President's power to issue a Proclamation under article 356 of the Constitution should be subject to the prior approval of Parliament. If this Bill is adopted, it is my intention to introduce similar Bills to amend articles 352 and 360.

Hence the Bill.

HARI VISHNU KAMATH.

NEW DELHI;
The 31st March, 1965.

BILL No. 26 OF 1965

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Penal Code (Amendment) Act, 1965.

(*2*) It shall extend to the whole of India, except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

Omission of section 309.

45 of 1860.

2. Section 309 of the Indian Penal Code, 1860, shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Section 309 of the Indian Penal Code provides for punishment of those who attempt to commit suicide. Apart from the philosophical argument, which I do not propose to examine or enter into, that the State has no *locus standi* in a matter which mainly, if not solely, concerns the relation between Man and his Maker, it is obvious that only those who are facing starvation and a slow death, or are otherwise in the grip of dire economic necessity or are labouring under intolerable mental or emotional strain, mostly attempt to commit suicide. Such cases of persons who in the circumstances aforesaid are on the verge of putting an end to their lives call, not for a punitive or retributive approach, but for psychiatric, reformatory treatment and, may be, economic assistance by a welfare State.

It is accordingly proposed to amend the Indian Penal Code by repealing section 309 thereof so as to make any attempt to commit suicide not a penal offence.

NEW DELHI;
The 31st March, 1965.

HARI VISHNU KAMATH.

S. L. SHAKDHER,
Secretary.

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